



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Rogers et al.

Serial No.: 10/052,077

Filed: January 17, 2002

For: Passive Flow Control Devices For  
Implantable Pumps

Atty. Docket No.: 011738.00052

Group Art Unit: 3763

Examiner: Sirmons, Kevin C.

Confirmation No.: 2977

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*FEB 04 2004*

*TECHNOLOGY CENTER R3700*

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Pursuant to 37 C.F.R. 1.97 and 1.98, the Applicant wishes to make the following references of record in the above-identified application. This Information Disclosure Statement is in compliance with the continuing duty of candor as set forth in 37 C.F.R. 1.56. Copies of the references cited below are enclosed. The references are also listed on the enclosed and completed PTO Form 1449.

02/02/2004 HAL111 00000085 190733 10052077

01 FC:1806

180.00 DA

REFERENCES

U.S. Patent Documents

1. U.S. Patent No.: 4,077,405; issued March 7, 1978;
2. U.S. Patent No.: 4,696,671; issued September 9, 1987;
3. U.S. Patent No.: 4,828,545; issued May 9, 1989;
4. U.S. Patent No.: 4,865,584; issued September 12, 1989;
5. U.S. Patent No.: 4,898,583; issued February 6, 1990;
6. U.S. Patent No.: 4,898,585; issued February 6, 1990;
7. U.S. Patent No.: 5,049,141; issued September 17, 1991;
8. U.S. Patent No.: 5,100,380; issued March 31, 1992;
9. U.S. Patent No.: 5,267,964; issued December 7, 1993;
10. U.S. Patent No.: 5,304,126; issued April 19, 1994;
11. U.S. Patent No.: 5,464,392; issued November 7, 1995;

## Foreign Patent Documents

1. German Publication No. DE 196 42 234; issued April 30, 1998;
2. United Kingdom Publication No. 1 506 305; issued April 5, 1978;
3. European Publication No. 0039124; issued November 4, 1981;
4. European Publication No. 0079405; issued May 25, 1983;
5. European Publication No. 0134614; issued March 20, 1985;
6. European Publication No. 0254031; issued January 27, 1988;
7. European Publication No. 0342947; issued November 23, 1989;
8. European Publication No. 0420620; issued April 3, 1991;
9. European Publication No. 0424494; issued March 2, 1991;
10. European Publication No. EP0860173; issued August 26, 1998;
11. International Publication No. WO 87/00758; issued February 12, 1987;
12. International Publication No. WO 91/15258; issued October 17, 1991;
13. International Publication No. WO 99/38551; issued August 5, 1999.

## Other References

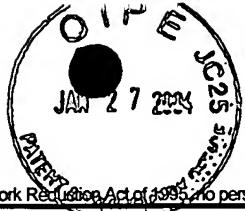
1. French Search Report; August 28, 2001;
2. French Search Report; October 21, 2003.

This Information Disclosure Statement is filed under 37 C.F.R. 1.97-1.98 after the issuance of a first Office Action on the merits. The Patent and Trademark Office is authorized to charge the appropriate filing fee of \$180 or credit any overpayment associated with this paper to Deposit Account No. 19-0733.

Respectfully submitted,  
BANNER & WITCOFF, LTD

Dated: January 27, 2004

By:   
Scott A. Burow  
Reg. No. 42,373



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Substitute for form 1449A/PTO

INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet

1

of

2

## Complete if Known

|                      |                  |
|----------------------|------------------|
| Application Number   | 10/052,077       |
| Filing Date          | January 17, 2002 |
| First Named Inventor | Rogers           |
| Art Unit             | 3763             |
| Examiner Name        | Kevin C. Sirmons |

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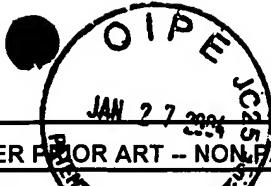
Attorney Docket Number 11738.00052

## U.S. PATENT DOCUMENTS

| Examiner Initials* | Cite No. <sup>1</sup> | Document Number                            | Publication Date<br>MM-DD-YYYY | Name of Patentee or Applicant of<br>Cited Document | Pages, Columns, Lines<br>Where Relevant<br>Passages or Relevant<br>Figures Appear |
|--------------------|-----------------------|--|--------------------------------|--|---|
|                    |                       | Number - Kind Code <sup>2</sup> (if known) |                                |  |   |
|                    |                       | US- 4077405                                | 03-07-1978                     | Haerten et al                                      |   |
|                    |                       | US- 4696671                                | 09-29-1987                     | Epstein et al                                      |   |
|                    |                       | US- 4828545                                | 05-09-1989                     | Epstein et al                                      |   |
|                    |                       | US- 4865584                                | 09-12-1989                     | Epstein et al                                      |   |
|                    |                       | US- 4898583                                | 02-06-1990                     | Borsanyi et al                                     |   |
|                    |                       | US- 4898585                                | 02-06-1990                     | Borsanyi et al                                     |   |
|                    |                       | US- 5049141                                | 09-17-1991                     | Olive  |   |
|                    |                       | US- 5100380                                | 03-31-1992                     | Epstein et al                                      |   |
|                    |                       | US- 5267964                                | 12-07-1993                     | Karg   |   |
|                    |                       | US- 5304126                                | 04-19-1994                     | Epstein et al                                      |   |
|                    |                       | US- 5464392                                | 11-07-1995                     | Epstein et al                                      |   |

## FOREIGN PATENT DOCUMENTS

| Examiner Initials* | Cite No. <sup>1</sup> | Foreign Patent Document   | Publication Date<br>MM-DD-YYYY | Name of Patentee or<br>Applicant of Cited<br>Document | Pages, Columns, Lines<br>Where Relevant<br>Passages or Relevant<br>Figures Appear | T <sup>6</sup> |
|--------------------|-----------------------|---|--------------------------------|---|---|----------------|
|                    |                       | Country Code <sup>3</sup> - Number <sup>4</sup> - Kind Code <sup>5</sup> (if known) |                                |   |   |                |
| DE                 | ✓                     | 19642234 w/translation attached   | 04-30-1998                     | Tricumed GmbH   |   |                |
| GB                 | ✓                     | 1506305   | 04-05-1978                     | Siemens Aktiengesellschaft                            |   |                |
| EPO                | ✓                     | 0039124   | 11-04-1981                     | Infusaid Corporation                                  |   |                |
| EPO                | ✓                     | 0079405   | 05-25-1983                     | The Commonwealth of Australia                         |   |                |
| EPO                | ✓                     | 0134614   | 03-20-1985                     | Vitafin N.V.  |   |                |
| EPO                | ✓                     | 0254031   | 01-27-1988                     | Consolidated Controls Corporation                     |   |                |
| EPO                | ✓                     | 0342947   | 11-23-1989                     | Baxter International, Inc.                            |   |                |
| EPO                | ✓                     | 0420620   | 04-03-1991                     | Infusaid, Inc.  |   |                |
| EPO                | ✓                     | 0424494   | 03-02-1994                     | Baxter International, Inc.                            |   |                |
| EPO                | ✓                     | 0860173   | 8-26-98                        | Indravudh Virtoe                                      |   |                |
| WO                 | ✓                     | 8700758   | 2-12-87                        | Baxter Travenol Laboratories                          |   |                |
| WO                 | ✓                     | 9115258   | 10-17-1991                     | Medtronic, Inc.                                       |   |                |
| WO                 | ✓                     | 9938551   | 08-05-1999                     | Medtronic, Inc.                                       |   |                |

**OTHER PRIOR ART -- NON-PATENT LITERATURE DOCUMENTS**

|                     |                       |  |  |
|---------------------|-----------------------|--|--|
| Examiner Initials * | Cite No. <sup>1</sup> | Include name of <del>the</del> author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T <sup>2</sup>   |
|                     |                       | French Search Report; August 28, 2001 (2 pages)  | <i>RECEIVED</i><br>FEB 6 2004<br>TECHNOLOGY CENTER R3700 |
|                     |                       | French Search Report; October 21, 2003; (3 pages)  |  |

|                    |                 |
|--------------------|-----------------|
| Examiner Signature | Date Considered |
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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 120 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## TRANSMITTAL FORM

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|                      |                  |
|----------------------|------------------|
| Application Number   | 10/052,077       |
| Filing Date          | January 17, 2002 |
| First Named Inventor | Rogers           |
| Art Unit             | 3763             |
| Examiner Name        | Kevin C. Sirmons |

Total Number of Pages in This Submission

Attorney Docket Number

11738.00052

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**ENCLOSURES (check all that apply)**

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| <input type="checkbox"/> Fee Attached  | <input type="checkbox"/> Drawing(s)   | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences                  |
| <input type="checkbox"/> Amendment / Response                                | <input type="checkbox"/> Licensing-related Papers   | <input type="checkbox"/> Appeal Communication to Group<br><i>(Appeal Notice, Brief, Reply Brief)</i> |
| <input type="checkbox"/> After Final   | <input type="checkbox"/> Petition   | <input type="checkbox"/> Proprietary Information   |
| <input type="checkbox"/> Affidavits/declaration(s)                           | <input type="checkbox"/> Petition to Convert to a Provisional Application   | <input type="checkbox"/> Status Letter   |
| <input type="checkbox"/> Extension of Time Request                           | <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address   | <input checked="" type="checkbox"/> Other Enclosure(s)<br><i>(please identify below):</i>            |
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| <input type="checkbox"/> Response to Missing Parts/ Incomplete Application   | Remarks   | Being filed via Express Mail No.: EL941345990US  |
| <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | The Commissioner is hereby authorized to charge any deficiencies in payment or credit any overpayment to our Deposit Account 19-0733. |  |

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

|                         |                  |
|-------------------------|------------------|
| Firm or Individual name | Scott A. Burow   |
| Signature               |                  |
| Date                    | January 27, 2004 |

**CERTIFICATE OF MAILING**

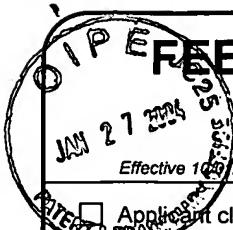
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# FEETRANSMITTAL

## for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 180)

## Complete If Known

|                      |                   |
|----------------------|-------------------|
| Application Number   | 10/052,077        |
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| First Named Inventor | Rogers            |
| Examiner Name        | Sirmons, Kevin C. |
| Art Unit             | 3763              |
| Attorney Docket No.  | 11738.00052       |

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## METHOD OF PAYMENT (check all that apply)

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Order

 Deposit Account:
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19-0733Deposit Account Name  
Banner & Witcoff, LTD.

## The Director is authorized to: (check all that apply)

 Charge fee(s) indicated below  Credit any overpayments  
 Charge any additional fee(s) during the pendency of this application  
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

## 1. BASIC FILING FEE

| Large Entity | Small Entity |
|--------------|--------------|
|--------------|--------------|

| Fee Code | Fee (\$) | Fee Code | Fee (\$) | Fee Description        | Fee Paid |
|----------|----------|----------|----------|------------------------|----------|
| 1001     | 770      | 2001     | 385      | Utility filing fee     |          |
| 1002     | 340      | 2002     | 170      | Design filing fee      |          |
| 1003     | 530      | 2003     | 265      | Plant filing fee       |          |
| 1004     | 770      | 2004     | 385      | Reissue filing fee     |          |
| 1005     | 160      | 2005     | 80       | Provisional filing fee |          |

SUBTOTAL (1) (\$ 0)

## 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

| Total Claims       | Extra Claims | Fee from below | Fee Paid |
|--------------------|--------------|----------------|----------|
|                    | ** = 0       | X              | = 0      |
| Independent Claims | ** = 0       | X              | = 0      |

Multiple Dependent X = 0

| Large Entity | Small Entity |
|--------------|--------------|
|--------------|--------------|

| Fee Code | Fee (\$) | Fee Code | Fee (\$) | Fee Description  |
|----------|----------|----------|----------|--|
| 1202     | 18       | 2202     | 9        | Claims in excess of 20                                     |
| 1201     | 86       | 2201     | 43       | Independent claims in excess of 3                          |
| 1203     | 290      | 2203     | 145      | Multiple dependent claim, if not paid                      |
| 1204     | 86       | 2204     | 43       | ** Reissue independent claims over original patent         |
| 1205     | 18       | 2205     | 9        | ** Reissue claims in excess of 20 and over original patent |

SUBTOTAL (2) (\$ 0)

\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

## 3. ADDITIONAL FEES

| Large Entity | Small Entity | Fee Code                          | Fee (\$) | Fee Description  | Fee Paid |
|--------------|--------------|-----------------------------------|----------|--|----------|
|              |              | 1051                              | 130      | Surcharge - late filing fee or oath  |          |
|              |              | 1052                              | 50       | Surcharge - late provisional filing fee or cover sheet                     |          |
|              |              | 1053                              | 130      | Non-English specification  |          |
|              |              | 1812                              | 2,520    | For filing a request for reexamination                                     |          |
|              |              | 1804                              | 920*     | Requesting publication of SIR prior to Examiner action                     |          |
|              |              | 1805                              | 1,840*   | Requesting publication of SIR after Examiner action                        |          |
|              |              | 1251                              | 110      | Extension for reply within first month                                     |          |
|              |              | 1252                              | 420      | Extension for reply within second month                                    |          |
|              |              | 1253                              | 950      | Extension for reply within third month                                     |          |
|              |              | 1254                              | 1,480    | Extension for reply within fourth month                                    |          |
|              |              | 1255                              | 2,010    | Extension for reply within fifth month                                     |          |
|              |              | 1401                              | 330      | Notice of Appeal   |          |
|              |              | 1402                              | 330      | Filing a brief in support of an appeal                                     |          |
|              |              | 1403                              | 290      | Request for oral hearing   |          |
|              |              | 1451                              | 1,510    | Petition to institute a public use proceeding                              |          |
|              |              | 1452                              | 110      | Petition to revive – unavoidable   |          |
|              |              | 1453                              | 1,330    | Petition to revive – unintentional   |          |
|              |              | 1501                              | 1,330    | Utility issue fee (or reissue)   |          |
|              |              | 1502                              | 480      | Design issue fee   |          |
|              |              | 1503                              | 640      | Plant issue fee  |          |
|              |              | 1460                              | 130      | Petitions to the Commissioner  |          |
|              |              | 1807                              | 50       | Processing fee under 37 CFR 1.17 (q)                                       |          |
|              |              | 1806                              | 180      | Submission of Information Disclosure Stmt                                  | 180      |
|              |              | 8021                              | 40       | Recording each patent assignment per property (times number of properties) |          |
|              |              | 1809                              | 770      | Filing a submission after final rejection (37 CFR § 1.129(a))              |          |
|              |              | 1810                              | 770      | For each additional invention to be examined (37 CFR § 1.129(b))           |          |
|              |              | 1801                              | 770      | Request for Continued Examination (RCE)                                    |          |
|              |              | 1802                              | 900      | Request for expedited examination of a design application                  |          |
|              |              | Other fee (specify) _____         |          |  |          |
|              |              | *Reduced by Basic Filing Fee Paid |          |  |          |
|              |              | SUBTOTAL (3) (\$ 180)             |          |  |          |

| SUBMITTED BY             |   |                                   |        |           |                  |
|--------------------------|---|-----------------------------------|--------|-----------|------------------|
| Complete (if applicable) |   |                                   |        |           |                  |
| Name (Print/Type)        | Scott A. Burow  | Registration No. (Attorney/Agent) | 42,373 | Telephone | 312-463-5000     |
| Signature                |  |                                   |        | Date      | January 27, 2004 |

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